

## UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

5 -----  
 6 DOUGLAS W. BAILLIE, :  
 7 Plaintiff, :  
 vs. : CASE NO.  
 8 CHUBB & SON INSURANCE, : C-1-02-062  
 9 Defendant. :  
 10 -----

Page 1

1 public-court reporter and transcribed by her out of the  
 2 presence of the witness; that the transcribed deposition  
 3 is to be submitted to the witness for her examination and  
 4 signature, and that signature may be affixed out of the  
 5 presence of the notary public-court reporter.

6

## I N D E X

8 DIANE R. HAGGARD	PAGE
9 CROSS-EXAMINATION BY MR. FREKING	5
10 EXAMINATION BY MR. MONTGOMERY	-

11

## EXHIBITS

13 Haggard Deposition No.	Page	Referenced
14 1	148	(See below)
15		
16		DOCUMENTS REFERENCED
17 Bates Stamp No.		Referenced
18 CIC 1348		117
19 CIC 1351 - 1354		118
20 CIC 1355		123, 161
21 CIC 1329 - 1334		140
22 CIC 1335		142
23 CIC 1337		145
24 CIC 1338		145

# COMPUTER DISK

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## 1 APPEARANCES:

2 On behalf of the Plaintiff:  
 3 RANDOLPH H. FREKING, ESQ.  
 and  
 5 MARK W. NAPIER, ESQ.  
 of  
 6 Freking & Betz  
 215 East Ninth Street  
 Fifth Floor  
 Cincinnati, Ohio 45202

## 9 On behalf of the Defendant:

10 DAVID K. MONTGOMERY, ESQ.  
 of  
 11 Keating, Muething & Klekamp PLL  
 1400 Provident Tower  
 One East Fourth Street  
 Cincinnati, Ohio 45202

14 Also Present: Jane Hughes, Law Clerk

16 - - -

## 18 S T I P U L A T I O N S

19 It is stipulated by and between counsel for  
 20 the respective parties that the deposition of DIANE R.  
 21 HAGGARD, a witness herein, may be taken at this time by  
 22 Counsel for the Plaintiff as upon cross-examination  
 23 pursuant to the Federal Rules of Civil Procedure; that the  
 24 deposition may be taken in stenotypy by the notary

## 1 DOCUMENTS REFERENCED (Continued)

2 Bates Stamped	Referenced
3 CIC 1339	147
4 CIC 1341	147
5 CIC 1342	149
6 CIC 1388	148
7 CIC 1345	151
8 CIC 1350	153
9 CIC 1356	153
10 CIC 1372	154
11 CIC 1373	157
12 CIC 1376	159, 161
13 CIC 1377	161
14 CIC 1378	161
15 CIC 1382	161
16 CIC 1383	162
17 CIC 1384	163
18 CIC 1385	166
19 CIC 1386	167
20 CIC 1388	168

## 22 COUNSEL REQUEST

23 Page 32 and 36

24

1 A. At the time he was fired?

2 Q. Uh-huh.

3 A. He was.

4 Q. Okay. Did you have any other reporting  
5 relationship other than directly to Mr. Baillie?

6 A. A dual accountability to Jim Ekdahl, who's  
7 the Northern Zone HR Manager.

8 Q. What does that mean, "dual accountability"?

9 A. That means that there's a dotted line, Jim  
10 is involved in creating my performance evaluation, he is  
11 responsible for the HR practice, and Doug was more of the  
12 business side of the Cincinnati Branch and Region, that  
13 sort of thing.

14 Q. Did you have a dotted-line relationship with  
15 Mr. Baillie or --

16 A. Direct. He was my direct supervisor.

17 Q. Okay. So not a dotted-line reporting  
18 relationship to him?

19 A. Right.

20 Q. But a dotted line to Ekdahl?

21 A. Right.

22 Q. Did you have a dotted-line relationship to  
23 anyone else?

24 A. No.

Page 18

1 Q. Now, are you familiar at all with the  
2 negotiations that surrounded the severance package offered  
3 to Mr. Baillie in September of 2001?

4 A. No, I wasn't involved in that.

5 Q. Were you at all -- were you familiar with  
6 the fact -- strike that.

7 Did you know Mr. Baillie was going to get  
8 fired before he got fired or after?

9 A. Before.

10 Q. And who told you that Mr. Baillie was going  
11 to get fired?

12 A. Jim Ekdahl.

13 Q. And do you recall how Mr. Ekdahl  
14 communicated this to you? You know, was it via e-mail,  
15 phone, in person?

16 A. Telephone.

17 Q. How far in advance of -- were you aware of  
18 the fact that Mr. Zerlong came in on a Friday afternoon, I  
19 believe, and met with Mr. Baillie and terminated him on a  
20 Friday afternoon?

21 A. Yes.

22 Q. Okay. How far in advance of Mr. Baillie  
23 being told by Mr. Zerlong that he was being fired do you  
24 believe you were told by Mr. Ekdahl it was going to

1 happen?

2 A. Approximately?

3 Q. Uh-huh.

4 A. A day or two.

5 Q. Okay. Now, after Mr. Ekdahl told you Mr.  
6 Baillie was going to be fired, did you have any  
7 conversations with anyone else concerning that decision?

8 A. No.

9 Q. Did Mr. Ekdahl ever tell you that Mr.  
10 Baillie was going to be offered a severance package?

11 A. No.

12 Q. Did you ever find out that Mr. Baillie was  
13 offered a severance package?

14 A. No. But -- no.

15 Q. Did you ever find out that the company got  
16 upset about some post-termination behavior allegedly by  
17 Mr. Baillie?

18 A. Could you define "post-termination  
19 behavior"?

20 Q. Well, are you aware of any behavior by Mr.  
21 Baillie after he was fired that you were aware that the  
22 company was concerned about?

23 A. No.

24 Q. Are you aware of any behavior after he was

Page 20

1 fired that you thought was inappropriate or improper by  
2 Mr. Baillie?

3 A. Yes.

4 Q. Okay. Did this behavior or conduct of Mr.  
5 Baillie that you thought was inappropriate or improper,  
6 did you communicate it to anyone else at Chubb?

7 A. Yes.

8 Q. Who did you communicate that to?

9 A. Leonard Sherer.

10 Q. In-house lawyer?

11 A. Uh-huh (nodding head affirmatively), yes.

12 Q. Anyone else?

13 A. Jim Ekdahl.

14 Q. Anyone else?

15 A. No.

16 Q. Okay. Who do you believe you first told  
17 about this alleged inappropriate or improper behavior?

18 MR. Montgomery: Before you go, I don't  
19 want you to discuss any of the substance of any  
20 conversations you had with Leonard Sherer.

21 THE WITNESS: Oh, okay.

22 MR. FREKING: You're going to have to,  
23 David, be consistent with that instruction that  
24 that's going to be the company's position that

	Page 21	Page 23
1      conversations with her and Mr. Sherer is 2      privileged.		1      A. I was asked to contact Leonard Sherer in the 2      event of any inappropriate behavior reported to me. 3      Q. Okay. Who asked you to do that? 4      A. I don't recall. 5      Q. Okay. Do you have any notes or documents 6      that you have or have access to that would refresh your 7      recollection as to who told you that?
3      MR. MONTGOMERY: All right. 4      A. Could you repeat the question? 5      Q. Which one did you speak to first about the 6      alleged improper or inappropriate behavior, Ekdahl or 7      Sherer? 8      A. Leonard Sherer. 9      Q. All right. Now, is it fair to say that at 10     the time you reported this to Mr. Sheer, Mr. Sheer was not 11     your direct boss? He's never been your direct boss, 12     right? 13     A. No. 14     Q. Who was your direct boss at the time you 15     reported this alleged behavior by Mr. Baillie to Mr. 16     Sherer? 17     A. Tim Zerlong was -- yeah, Tim Zerlong. 18     Q. Tim Zerlong became your direct boss after 19     Mr. Baillie was fired? 20     A. Right, temporarily. 21     Q. Now, why is it that you chose to -- you knew 22     Mr. Sherer was in-house counsel for Chubb? 23     A. Yes. 24     Q. Why is it that you chose to contact Mr.	8      A. Yes. 9      THE WITNESS: I think he does to, doesn't 10     he? 11     MR. MONTGOMERY: It would depend on whether 12     it was a privileged document or not. He does have 13     some of your notes. 14     THE WITNESS: Okay. 15     Q. So other than your notes -- 16     A. That's it. 17     Q. -- that would be it, right -- 18     A. Yes. 19     Q. -- that would refresh your recollection as 20     to who told you that? 21     A. Uh-huh (nodding head affirmatively). 22     Q. All right. Now, in your tenure as the HR 23     Manager, whatever your title has been since February of 24     1999, have you ever been instructed by anyone to contact	
	Page 22	Page 24
1      Sherer about this alleged improper or inappropriate 2      behavior by Mr. Baillie? 3      MR. MONTGOMERY: Let me just stop for a 4      second and hopefully we can resolve this, but you 5      want to keep repeating what the substance of the 6      conversation was between her and Mr. Sherer. I 7      mean, she did, in answer to one of your questions 8      reveal what that substance was, because I didn't 9      know that was going to be the answer. But I do 10     object to the extent that you want to just keep 11     repeating that and I don't want to waive the 12     privilege. 13     MR. FREKING: Okay. No, I don't think 14     you're waiving the privilege by that, because I 15     think we're just identifying a conversation opposed 16     to talking about the substance of the conversation. 17     MR. MONTGOMERY: But you are bringing up the 18     substance of the conversation because she already 19     said what -- 20     MR. FREKING: I'll rephrase the question, 21     how about that? 22     MR. MONTGOMERY: That's will be good. 23     Q. Why do you think you first contacted Mr. 24     Sherer rather than Mr. Zerlong?	1      Mr. Sherer or anybody else in the Legal Department in the 2      event of any inappropriate behavior by any employee or 3      former employee other than Mr. Baillie? 4      A. Yes. 5      Q. Okay. Who was that? 6      A. Who told me to contact them? 7      Q. No. Who else were you instructed to contact 8      Legal about in the event of any inappropriate or improper 9      behavior on the part of an employee or ex-employee. 10     A. Michael Haberthy, H-A-B-E-R-T-H-Y. I can 11     picture him, but I can't think of his last name. 12     Q. Well, can you think of his first name? 13     A. Chris in Indianapolis in Loss Control. I 14     think there were more, but that's all I can recall right 15     now. 16     Q. Do you have notes about the other employees 17     that you were instructed to contact Mr. Sherer or 18     someone in Legal in the event of any inappropriate 19     behavior? 20     A. I don't know, I'd have to check. 21     Q. Okay. Tell me a little about Michael 22     Haberthy. Who was -- first of all, is he still employed 23     by the company? 24     A. No.	

1 meeting with Mr. Montgomery?  
 2 A. No, I think that was all.  
 3 Q. Okay. Do you believe your notes contained  
 4 information about improprieties of Mr. Baillie?  
 5 A. Yes.  
 6 Q. And do you know of any improprieties by Mr.  
 7 Baillie that are somehow violations of Chubb policies that  
 8 are not reflected in your notes?  
 9 A. Yes.  
 10 Q. Okay. What was that? What are the things  
 11 that you think of that were not contained within your  
 12 notes that involved improprieties or violations of company  
 13 policy, or anything that Baillie did that was bad?  
 14 A. I don't believe I have notes on what could  
 15 be viewed as sexist comments.  
 16 Q. Uh-huh.  
 17 A. (Continued) I don't believe my notes  
 18 contain an incident in Jamaica, but they could, I don't  
 19 recall.  
 20 There were several issues that would come  
 21 up, in particular in my first maybe six months in HR,  
 22 where people would come in and talk to me about their  
 23 frustrations with Doug that I didn't record.  
 24 Q. Do you recall anything specific about those

1 frustrations?  
 2 A. From a general standpoint?  
 3 Q. General or specific.  
 4 A. There were --  
 5 Q. Anything you can possibly recall.  
 6 A. Okay. They were condescending comments,  
 7 inappropriate comments toward an African-American female  
 8 employee. Events where he was drinking heavily, driving  
 9 erratically, drunk, and confusion over the strategy and  
 10 his instructions to them.  
 11 Q. Uh-huh.  
 12 A. (Continued) That's -- (witness did not  
 13 complete response).  
 14 Q. That's what you can remember?  
 15 A. There's probably more, but that's -- yeah.  
 16 Q. What do you mean, you think "there's  
 17 probably more"? Are there any notes or records that you  
 18 have that could refresh your recollection on that?  
 19 A. No.  
 20 Q. Is there anybody you can talk to, do you  
 21 think, that could refresh you recollection on that?  
 22 A. Yes.  
 23 Q. Who would that be?  
 24 A. Dieter Korte, Tom Gates, Mike Zdinak,

1 Z-D-I-N-A-K, Beth Hunter, Susan Audino, A-U-D-I-N-O, Greg  
 2 Tazic, T-A-Z-I-C. That's --  
 3 Q. That's the list?  
 4 A. Yeah, that's the capture.  
 5 Q. Okay. Are they all still employed by Chubb,  
 6 to your knowledge?  
 7 A. To my knowledge, yes.  
 8 Q. Are they all employed in Cincinnati?  
 9 A. No.  
 10 Q. Is Tazic still in Cincinnati?  
 11 A. No.  
 12 Q. Where is he?  
 13 A. He's in Itasca, Illinois.  
 14 Q. How about Korte?  
 15 A. He is still in Cincinnati.  
 16 Q. Gates?  
 17 A. Cincinnati.  
 18 Q. Zdinak?  
 19 A. Zdinak, yes, he's in Cincinnati.  
 20 Q. Hunter?  
 21 A. She's in Cincinnati.  
 22 Q. Audino?  
 23 A. Charlotte. Do you want more names? I'm  
 24 thinking of more names.

1 Q. Oh, yeah.  
 2 A. (Continued) Becky Emerson, Amy Miller, Mark  
 3 Pennell, P-E-N-N-E-L-L. That's good for now.  
 4 Q. Well, you say "that's good for now," is that  
 5 all you can remember?  
 6 A. That's all I can remember.  
 7 Q. Pennell, is he still Cincinnati?  
 8 A. Yes.  
 9 Q. Miller still in Cincinnati?  
 10 A. Yes.  
 11 Q. And Emerson?  
 12 A. Yes.  
 13 Q. Okay.  
 14 Q. All of them -- the Cincinnati folks are  
 15 normally -- they work in the office here in Cincinnati,  
 16 they don't travel?  
 17 A. They -- some travel. You'd need to go down  
 18 the list again for me to tell you which ones.  
 19 Q. But they're generally available, right?  
 20 A. Uh-huh (nodding head affirmatively), yes.  
 21 Q. Who was responsible for the discipline of  
 22 Mr. Baillie during his employment, do you know?  
 23 A. When he first started it would have been  
 24 Terry Cavanaugh as the Zone Officer.

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1 Q. Uh-huh.  
 2 A. (Continued) And when Terry Cavanaugh left  
 3 the position and Tim Zerlong entered in, it would have  
 4 been Tim Zerlong.

5 Q. Mr. Cavanaugh is no longer with the company;  
 6 is that correct?

7 A. He is with the company.

8 Q. Is he in New Jersey?

9 A. Yes.

10 MR. FREKING: Off the record.

11 (Off-the-discussion).

12 Q. Were you ever asked by Terry Cavanaugh --  
 13 strike that.

14 Did you ever report condescending comments,  
 15 inappropriate comments, drinking issues, confusion over  
 16 strategy, or failure to help people in their career  
 17 growth, did you ever report anything like that by Baillie  
 18 to Mr. Cavanaugh?

19 A. Not that I recall.

20 Q. Okay. Is that because -- strike that. If  
 21 employees came to you with comments about Mr. Baillie that  
 22 you, in a human resources role, believe would necessitate  
 23 at least some conversation with Mr. Baillie or some sort  
 24 of investigation, is there someone who you would report

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1 that to?

2 A. Yes.

3 Q. In the chain of command, who would that be?

4 A. Jim Ekdahl.

5 Q. Okay. And Mr. Ekdahl was your immediate --  
 6 or strike that -- was your dotted line HR contact  
 7 throughout Mr. --

8 MR. MONTGOMERY: We've covered that, didn't  
 9 we?

10 Q. -- throughout Mr. Baillie's tenure?

11 A. Yes.

12 Q. Tell me what concerns brought to you by  
 13 employees that you reported to Mr. Ekdahl that you can  
 14 remember.

15 A. I talked to Mr. Ekdahl about a dinner that  
 16 Doug went with Tom Gates and Mapes & Company. I talked to  
 17 Ekdahl about instances where I was directly involved. I  
 18 talked to Ekdahl about what happened in Jamaica. There  
 19 are probably more, but that's what is on top of my head.

20 Q. Well, do you recall reporting to Mr. Ekdahl  
 21 the alleged condescending comments?

22 A. Yes, that would be with Tom Gates.

23 Q. Okay. So that's a condescending comment  
 24 problem --

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1 A. That's --  
 2 Q. -- with Gates?  
 3 A. Yeah, what occurred at dinner.  
 4 Q. Okay. Did you report any other  
 5 condescending comments to Mr. Ekdahl?  
 6 A. Actually, yes, I did, one with Dana Snyder.  
 7 And I had heard from Dieter Korte and Greg Tazic about  
 8 some condescending interactions with Doug.  
 9 Q. Had you reported those to Ekdahl?  
 10 A. Some.  
 11 Q. Okay. Korte and who else?  
 12 A. Tazic.  
 13 Q. Tazic.  
 14 A. (Continued) Different events.  
 15 Q. Okay. And you reported those to Ekdahl?  
 16 A. Some.  
 17 Q. Because you reported whatever you thought  
 18 was inappropriate or improper or of concern about Baillie,  
 19 you would report to Ekdahl; is that correct --  
 20 A. Yes. Seeking advice --  
 21 Q. -- as part of your job?  
 22 A. -- in how to both approach Doug in coaching  
 23 and when I -- you know, when I felt that they crossed the  
 24 line.

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1 Q. Okay. Tell me about your authority as you  
 2 knew it to coach Doug.  
 3 A. My authority?  
 4 Q. Well, you said you would seek his advice on  
 5 how to coach Doug.  
 6 A. Yeah.  
 7 Q. Tell me what role you had in -- or what your  
 8 role was in coaching Doug on HR issues?  
 9 A. Well, when I would hear things from  
 10 employees, I would try to filter it to determine whether I  
 11 thought it had validity or the person was overreacting.  
 12 And if I felt it was valid and/or substantiated by more  
 13 than one person, then I would talk to Doug about it.  
 14 Q. Okay. You would talk to him in a counseling  
 15 capacity?  
 16 A. Right.  
 17 Q. You would counsel him?  
 18 A. Yes.  
 19 Q. Okay. Did you have the ability, to your  
 20 knowledge, to issue any kind of written discipline to Mr.  
 21 Baillie?  
 22 A. No.  
 23 Q. You were limited in your responsibility to  
 24 give him oral counseling?

1 A. Right.  
 2 Q. Did you have an ability to recommend written  
 3 discipline?  
 4 A. No.  
 5 Q. Did you have the ability to recommend  
 6 termination?  
 7 A. No.  
 8 Q. Okay. So is it fair to say you never  
 9 recommended to anyone that Mr. Baillie be given any  
 10 written warning or that he be terminated?  
 11 A. I did not.  
 12 Q. Okay. Did you ever report to Mr. Ekdahl  
 13 inappropriate comments about African-Americans?  
 14 A. No.  
 15 Q. Why not?  
 16 A. I was asked not to and I had never heard  
 17 anything like that before from him, so I made a judgment  
 18 call not to report it.  
 19 Q. You didn't think it was serious enough to  
 20 report it?  
 21 MR. MONTGOMERY: Objection.  
 22 A. Right.  
 23 MR. MONTGOMERY: Mischaracterizes the  
 24 testimony.

1 MR. FREKING: Dave, listen, I'm going to put  
 2 up with some objections, but I'm going to object in  
 3 that you're clearly coaching the witness.  
 4 Q. Your answer was no, you did not think it was  
 5 serious enough to report it to Mr. Ekdahl --  
 6 A. Right.  
 7 Q. -- the comment about the African-American  
 8 employee?  
 9 A. That's correct.  
 10 Q. Did you report to Mr. Ekdahl anything about  
 11 Mr. Baillie's drinking?  
 12 A. Yes.  
 13 Q. Tell me about that.  
 14 A. Well, there was a picture in his desk drawer  
 15 of a totaled car, a Taurus, company car, and he would brag  
 16 to people in the office that he totalled the car after a  
 17 night of drinking and climbed out the window and walked --  
 18 it went over a cliff, he climbed out the window and walked  
 19 away from it, walked home.  
 20 Q. Okay. Is that the extent of what you told  
 21 Mr. Ekdahl about his drinking?  
 22 A. I don't remember the exact events, but there  
 23 were a few agency outings where employees would come to me  
 24 and report that they were uncomfortable with the amount of

1 drinking consumed by Doug and his behavior as the evening  
 2 went on.  
 3 Q. Okay. You reported those to Ekdahl?  
 4 A. Uh-huh (nodding head affirmatively), yes.  
 5 Q. Okay. Anything else about his drinking?  
 6 A. That I reported to Ekdahl?  
 7 Q. Uh-huh.  
 8 A. Not that I can recall --  
 9 Q. Okay.  
 10 A. -- that I reported to him.  
 11 Q. Knowing what you know about Chubb's HR  
 12 structure, do you believe that Mr. Ekdahl had the ability  
 13 to issue written reprimands or discipline to Mr. Baillie?  
 14 A. To the best of my knowledge, yes.  
 15 Q. Okay. Did Mr. Ekdahl ever tell you whether  
 16 or not he ever disciplined Mr. Baillie?  
 17 A. No, he did not.  
 18 Q. Do you know to this day whether Mr. Baillie  
 19 was ever disciplined short of being terminated?  
 20 A. No, I don't.  
 21 Q. Did you ever report to Mr. Ekdahl alleged  
 22 confusion over strategy of branch?  
 23 A. Yes.  
 24 Q. Would you agree or disagree with Mr. Korte's

1 meeting with Mr. Sherer?  
 2 A. Yes.  
 3 Q. Do you know whether this occurred Mr.  
 4 Baillie's termination or after his termination?  
 5 A. I believe it was after.  
 6 Q. Do you recall prior to Mr. Baillie's  
 7 termination, did you have any meeting with Mr. Sherer?  
 8 A. Prior to his termination?  
 9 Q. Uh-huh.  
 10 A. Not that I recall.  
 11 Q. When you counseled -- do you recall what  
 12 year this was with Tom Gates and the Mapes & Company,  
 13 approximately?  
 14 A. I believe it was 2001, but I can't be sure.  
 15 Q. Okay. Now, this came to your attention  
 16 because Tom Gates made some allegations to you; is that  
 17 correct?  
 18 A. Right.  
 19 Q. Prior to you calling Mr. Ekdahl about Tom  
 20 Gates' comments, did you make any effort to get Mr.  
 21 Baillie's side of the story?  
 22 A. On that specific event, no.  
 23 Q. Okay. You decided to counsel him -- you and  
 24 Mr. Ekdahl decided to counsel him before you got his side

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1 Q. Do you know why he didn't agree? Did he  
 2 express any reasons why he thought Gates was overreacting?  
 3 A. He thought Tom was emotional and --  
 4 Q. Is Gates still employed by the company?  
 5 A. Yes.  
 6 Q. So Mr. Baillie thought Gates overreacted?  
 7 A. Uh-huh (nodding head affirmatively) yes.  
 8 Q. Okay. Did you make a judgment as who was  
 9 right or wrong --  
 10 A. No.  
 11 Q. -- Gates or Baillie?  
 12 A. No.  
 13 Q. Then why did you counsel Mr. Baillie? Are  
 14 you using "counsel" in the sense of discipline or are you  
 15 using "counsel" in a sense of just speaking with him about  
 16 it?  
 17 A. Just speaking with him about it.  
 18 Q. Okay. So no discipline as a result of this  
 19 dinner?  
 20 A. Oh, no.  
 21 Q. Okay. No discipline was warranted in your  
 22 view?  
 23 A. It's not my place to decide that.  
 24 Q. Well, did Mr. Ekdahl conclude that there was

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1 of the story; is that correct?  
 2 A. Well, my conversation with Ekdahl was more  
 3 for advice for me.  
 4 Q. Okay. Did he advise you to get Baillie's  
 5 side of the story before you reached a decision on  
 6 discipline?  
 7 A. Yes.  
 8 Q. Okay. Did you do that?  
 9 A. Did I get Baillie's side of the story?  
 10 Q. Before you counseled him.  
 11 A. Yes.  
 12 Q. What was Baillie's side of the story?  
 13 A. I asked him if he remembered going to dinner  
 14 with Tom and with Mapes, "yes, I did." "Do you remember  
 15 your conversation? Do you remember Tom ever getting  
 16 upset. Do you know what you guys were talking about,"  
 17 that sort of thing. And then he would -- he didn't  
 18 realize that Tom was upset. And so I shared with him  
 19 Tom's feelings and impression of the conversation and how  
 20 that made him feel.  
 21 Q. Okay. Did Baillie indicate to you whether  
 22 or not he agreed or disagreed with Tom's feelings after he  
 23 learned of them?  
 24 A. He didn't agree.

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1 any discipline warranted?  
 2 MR. MONTGOMERY: Objection calls for  
 3 speculation.  
 4 A. I wouldn't know.  
 5 Q. Well, Mr. Ekdahl never instructed you to  
 6 discipline Mr. Baillie for this?  
 7 A. I have no authority to discipline Mr.  
 8 Baillie.  
 9 Q. Did you report back to Mr. Ekdahl the  
 10 results of your conversation with Mr. Baillie?  
 11 A. No.  
 12 Q. Did you form a belief as to who was right or  
 13 wrong, Baillie or Gates?  
 14 A. No.  
 15 Q. Okay. Did you follow up at all with Gates  
 16 after Baillie told you "hey, Tom just overreacted"?  
 17 A. No.  
 18 Q. Okay. How old is Mr. Gates, would you  
 19 estimate?  
 20 A. Early 50s.  
 21 Q. Now, did you report the Donna (sic) Snyder  
 22 incident to Mr. Ekdahl -- or Dana Snyder?  
 23 A. Dana. I don't believe I did.  
 24 Q. Okay. You did not because it was not

1 Q. Were you being truthful when you spoke to  
2 Dana Snyder?

3 A. I don't know if I can answer that. I was  
4 hopeful. I could not say one way or the other what Doug's  
5 true intent was.

6 Q. And you couldn't say one way or the other  
7 what Mr. Snyder's true intent was?

8 A. Right.

9 Q. Sometimes --

10 A. All I could do --

11 Q. Sometimes in your experience in Human  
12 Resources people make complaints when they're criticized  
13 in their performance and those complaints are unjustified?

14 A. It's still the way they felt.

15 Q. Sometimes people make excuses about their  
16 performance, right?

17 A. Yes.

18 Q. How about -- you also said you talked to  
19 Ekdahl about some comments from Korte, Dieter Korte?

20 A. Yes.

21 Q. Do you know whether or not Mr. Baillie was  
22 ever disciplined as a result of any interaction between  
23 him and Mr. Korte?

24 A. Not that I know of.

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1 your knowledge had been given the responsibility by Chubb  
2 to determine the management philosophy for that particular  
3 branch; is that correct?

4 A. The way they worked it with the dual  
5 accountability, especially in an underwriting capacity, is  
6 the Northern Zone Commercial Lines Manager looks at the  
7 Commercial Lines product and profit, and Doug is concerned  
8 with profit and growth for that specific area.

9 So to say that Doug exclusively is  
10 responsible for the business, no. There sometimes is  
11 conflict.

12 Q. Okay. Did you make a judgment as to whether  
13 or not Korte was correct in his disagreement with Baillie  
14 or did you think that was a management difference of  
15 opinion?

16 A. I agreed with Dieter.

17 Q. Oh, you agreed with Dieter. Now, what did  
18 Dieter tell you that you agreed with?

19 A. The emphasis on growth and trip reports and  
20 agency calls.

21 Q. Dieter thought there was too much emphasis  
22 on growth?

23 A. Yes.

24 Q. He thought there was too much emphasis on

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1 Q. What was the nature of what you spoke to Mr.  
2 Ekdahl in regards to Korte's comments or complaints?

3 A. I wanted to make sure that we all looked out  
4 for Dieter, because he was a valued member of our branch  
5 and region, of the Commercial Lines Department and the  
6 zone and he wanted to resign out of frustration over Doug  
7 Baillie.

8 Q. Okay. He thought that Baillie put too much  
9 emphasis on marketing?

10 MR. MONTGOMERY: Objection. Calls for  
11 speculation.

12 Q. (Continued) Korte, did you know that? He  
13 disagreed with Baillie's business philosophy?

14 A. Yes.

15 Q. Okay. Baillie was running the business,  
16 correct?

17 A. The branch?

18 Q. Yes.

19 A. Yes.

20 Q. Normally -- and Korte reported to Baillie,  
21 right?

22 A. Dual accountability, his direct report was  
23 Doug Baillie.

24 Q. Right. And as far as -- and Baillie, to

1 trip reports?

2 A. Oh, yes.

3 Q. Too much emphasis on agency calls?

4 A. Yes.

5 Q. Now, did you get Mr. Baillie's opinion on --  
6 or his explanation as to why he placed a greater emphasis  
7 on growth than Korte believed he should?

8 A. Yes, to -- again, this is to the best of my  
9 knowledge.

10 Q. No, did you meet with him and discuss  
11 this --

12 A. Yes.

13 Q. -- or is this just speculation on your part?

14 A. I spoke with Doug about this.

15 Q. Okay.

16 A. (Continued) It was two-plus years ago,  
17 so --

18 Q. Yeah, what did Doug tell you about why he  
19 placed more emphasis on growth than Dieter wanted to?

20 A. To the best of my memory, it was the more  
21 you're in front of the agent, he felt the more business  
22 they would give you.

23 Q. Uh-huh.

24 A. (Continued) And the more you grow, the

1 Q. This is a branch-by-branch decision?  
 2 A. Correct.  
 3 Q. Okay. How about the agency calls, were you  
 4 in a position to -- what was the problem with Baillie's  
 5 view on agency calls? Wanted more agency calls than Korte  
 6 thought he should?  
 7 A. Quantity over quality.  
 8 Q. Is that how Baillie phrased it, he wants --  
 9 he doesn't want quality?  
 10 A. He wanted you out there in front of them all  
 11 the time.  
 12 Q. And he wanted quality visits, but more  
 13 quality visits?  
 14 A. Right.  
 15 Q. Okay. And you somehow think Korte's view  
 16 that there should be less agency calls was correct?  
 17 A. Well, the agents were telling Dieter that  
 18 they would rather set up some specific meetings rather  
 19 than have them come over all the time so that -- because  
 20 they were busy, they wanted more quality visits; that's  
 21 what Dieter was telling me.  
 22 Q. Did you talk to Baillie about those, too?  
 23 A. Yes.  
 24 Q. Did he give you an explanation as to why he

1 place was with respect to Doug?  
 2 A. If I should be counseling my direct  
 3 supervisor. He's my boss, I'm not his boss; so where's my  
 4 place? Is he going to tell me mind my own business or is  
 5 he going to appreciate what I can share.  
 6 So I called Ekdahl both to tell him what it  
 7 was and to ask him if it would be okay and would it be  
 8 appropriate for me to ask Doug not to brag about this  
 9 anymore, because we had some people in the branch that had  
 10 lost family members to drunk drivers and its impact was  
 11 not good. And he said "yeah, you should talk to Doug  
 12 about that and let him know."  
 13 Q. Okay. Did you talk to Doug about that?  
 14 A. Yes.  
 15 Q. And what did Doug say?  
 16 A. He was fine with it, and to the best of my  
 17 knowledge, didn't talk about it.  
 18 Q. Okay. So when you told him to stop doing  
 19 it, he listened to you and stop doing it, as far as you  
 20 know?  
 21 A. As far as I know.  
 22 Q. Would this be in like the '99 time frame?  
 23 A. Right.  
 24 Q. So when Mr. Baillie received his 2000

1 wanted more agency calls? He thought it would result in  
 2 more business?  
 3 A. Yes.  
 4 Q. He thought it would make the branch more  
 5 profitable?  
 6 A. He didn't say those words.  
 7 Q. But did you understand that?  
 8 A. Yeah.  
 9 Q. His goal was to make the branch profitable;  
 10 is that correct?  
 11 A. Yes.  
 12 Q. All right. Now, the picture of the totaled  
 13 car that he had in his desk, did you report this to Mr.  
 14 Ekdahl?  
 15 A. I believe I did.  
 16 Q. Did Ekdahl instruct you to say anything to  
 17 Baillie about it?  
 18 A. Yes, he did.  
 19 Q. Okay. What did he tell you to say to Mr.  
 20 Baillie?  
 21 A. I asked him if it would -- this was fairly  
 22 new to my tenure in HR, and I wasn't really sure what my  
 23 place was with Doug. And I asked him --  
 24 Q. I'm sorry, why weren't you sure what your

1 performance review, it would concern matters that had been  
 2 reported to the company in 1999 or his performance in '99?  
 3 MR. MONTGOMERY: Objection. Calls for  
 4 speculation.  
 5 A. I've never seen his review.  
 6 Q. Okay. Now, the agency outings that people  
 7 at the agency outings, they were golf outings, right?  
 8 A. Some.  
 9 Q. Okay. What agency outings are you aware of  
 10 that Mr. Baillie allegedly drank too much or behaved  
 11 inappropriately other than golf outings?  
 12 A. The March Madness event that we host at  
 13 Westminster's, Reds games, dinners.  
 14 Q. Who complained to you that Mr. Baillie drank  
 15 too much or behaved inappropriately at your March Madness  
 16 event?  
 17 A. I don't recall who it was off the top of my  
 18 head.  
 19 Q. Do you think you're turned over to us all  
 20 your notes concerning Mr. Baillie?  
 21 A. Yes.  
 22 Q. Okay. You don't have any other notes that  
 23 would refresh your recollection as to -- you say somebody  
 24 complained to you, though, about his behavior at March

1 was AON, A-O-N.

2 Q. Do you think this was one event? When you  
3 said "Reds," I think you said "games" --

4 A. He --

5 Q. -- are you saying there were multiple  
6 occasions at which Baillie was accused acting  
7 inappropriately?

8 A. Yeah. We had four season tickets --

9 Q. Uh-huh.

10 A. -- and people would off-the-cuff tell me "I  
11 can't believe he's in so early, he really tied one on last  
12 night," or "I didn't want to drive home with him," or that  
13 sort of thing. But this was -- there was no proof and  
14 people would be amazed at how much he could drink and  
15 function the next day, as well as that night.

16 Q. As well as he did?

17 A. Yeah.

18 Q. He could function very well, and he could  
19 function very well despite whatever happened the night  
20 before?

21 A. Yes.

22 Q. Okay. And multiple times at Reds games,  
23 this would be reported to you as a problem of some sort?

24 A. Most of the time it was just off-the-cuff

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1 comments, the March Madness comments, the Reds games  
2 event, the agency events, the dinners, agency outings, the  
3 picture of the totaled car, you were aware of all these  
4 complaints about Baillie and drinking and being loud and  
5 obnoxious?

6 A. Third-party, yes. Not --

7 Q. I assume, as a human resources manager, you  
8 investigated these things when you found out about them?

9 A. I would talk to Ekdahl about them. I would  
10 sometimes talk to Doug about them.

11 Q. So you would report some of these to Ekdahl?

12 A. Yes.

13 Q. Did Ekdahl ever take any action against  
14 Baillie that you're aware of?

15 A. Not that I'm aware of, I don't know.

16 Q. Are you familiar with the Chubb Code of  
17 Conduct?

18 A. Yes.

19 Q. Did Mr. Baillie ever violate the Code of  
20 Conduct in regard to these matters at all?

21 A. Yes.

22 Q. Is it normally that violations of Code of  
23 the Conduct result in some sort of discipline, or is it  
24 just a piece of paper, a bunch of, you know, things that

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1 comments. It wasn't an official-HR type conversation  
2 where they wanted their name written down. A lot of  
3 times, as you'll see in my notes, I didn't write them down  
4 because people would -- they didn't want me to write it  
5 down, they didn't want to report it, they wanted to just  
6 talk about it with someone as a peer, and not an HR  
7 manager.

8 Q. So you viewed your role as an HR manager, if  
9 you became aware of things that were bothering employees,  
10 you would let the employee tell you whether or not to make  
11 it official?

12 A. No.

13 Q. And you would agree with me as an HR person,  
14 if you're aware of concerns about a person's performance,  
15 or anything, really, you should take whatever appropriate  
16 action? You're the one that --

17 A. Absolutely, yes.

18 Q. -- who decides how to do things from a human  
19 resources standpoint?

20 A. Right.

21 Q. You don't let the employees decide whether  
22 or not it's a matter of concern?

23 A. Right.

24 Q. Okay. But you were aware of all these

1 are written on paper, but not really enforced?

2 MR. MONTGOMERY: Compound. Argumentative.

3 Q. Is the Code of Conduct taken seriously at  
4 Chubb?

5 A. Yes.

6 Q. Is HR responsible for disciplining people  
7 for violations of the Code of Cconduct?

8 A. Yes.

9 Q. All right. Do you think the Dana Snyder  
10 matter was a violation of Chubb's Code of Conduct?

11 A. It was not conclusive.

12 Q. Did you think the dinner meeting with Tom  
13 Gates was a violation of Chubb's Code of Conduct?

14 A. Again, it's he-said-he-said.

15 Q. Nonconclusive?

16 A. Right.

17 Q. Okay. The agency -- some other agency  
18 outings that Mr. Baillie allegedly was accused of drinking  
19 too much was at golf outings; is that correct?

20 A. I've heard of golf outings.

21 Q. Were the golf outings sometimes sponsored by  
22 Chubb?

23 A. Yes.

24 Q. Who was the host of those events? The

1 person that was viewed as the host of the golf outing?

2 A. Doug.

3 Q. And was this another event at which -- the  
4 company sponsored, at which they served alcohol and they  
5 knew people would drive home after drinking?

6 A. How do you know someone's going to drive  
7 home after drinking?

8 Q. Well, do you play golf at all?

9 A. Yes.

10 Q. Do you have any experience from your real  
11 life to know that when a company supplies alcohol on a  
12 golf course, it's likely that golfers are going to drink  
13 while they are golfing? Or do you think -- were you  
14 surprised to learn that people were drinking at golf  
15 outings?

16 A. If it's available, it's one thing. If you  
17 chose to drink it, is another. I don't really chose to  
18 drink when I'm golfing.

19 Q. Do you know -- I mean, maybe you haven't  
20 done any research on the subject, but are you experienced  
21 enough to know that, you know, at golf outings people  
22 drink beer, a number of people drink beer, it's a fun  
23 occasion?

24 A. Occasionally.

1 Q. Did it violate the Chubb Code of Conduct for  
2 Mr. Baillie and his wife to have an argument on the beach?  
3 A. Not directly.  
4 Q. Did you ever speak to Mr. Baillie about what  
5 happened during the argument on the beach, what caused it?  
6 A. He denied the event.  
7 Q. Were you a witness to it?  
8 A. No.  
9 Q. Who was?  
10 A. Well --  
11 Q. Did someone report to you that there was an  
12 argument on the beach?  
13 A. Yes.  
14 Q. Do you remember who that was?  
15 A. His wife.  
16 Q. His wife talked to you --  
17 A. Uh-huh (nodding head affirmatively).  
18 Q. -- and said they had an argument on the  
19 beach?  
20 A. Yes.  
21 Q. What did she say about the argument on the  
22 beach to you?  
23 A. Do you want me tell you the whole --  
24 Q. Yeah, why don't you? This is all reported

1 Q. Right. Did you send out any kind of e-mails  
2 in advance of the golf outings to indicate to people that  
3 you could get them cabs on a confidential basis if they  
4 felt like they needed a ride home?

5 A. I don't believe we sent an e-mail before the  
6 golf outing.

7 Q. Can you think of any events in which you  
8 sent e-mails other than the March Madness event?

9 A. The holiday party.

10 Q. You knew people would potentially drink and  
11 drive at the holiday party?

12 A. Potentially.

13 Q. Does the March Madness event still occur?

14 A. Yes.

15 Q. The company still hosts people at Reds games  
16 and has golf outings and holiday parties and dinners at  
17 which alcohol is served?

18 A. Yes.

19 Q. Now, what about the -- you told -- you also  
20 told Ekdahl about the Jamaica event?

21 A. Uh-huh (nodding head affirmatively).

22 Q. Is this the event where Mr. Baillie

23 allegedly had an argument with his wife on the beach?

24 A. Yes.

1 by his wife, Mrs. Baillie?

2 A. Yes. She said that the meetings were over  
3 for the day and that Doug and she and David Walker, I  
4 believe, and his wife -- it's an agent in our Louisville  
5 territory --

6 Q. Uh-huh.

7 A. -- went down to the beach and that there was  
8 some -- again, this is two years ago -- like a floating  
9 island or trampoline or something out on the beach tied  
10 down and that they wanted to go out and get to it. So  
11 Dori was going to set up a little area on the beach.  
12 David and Doug ran out.

13 Doug didn't realize he still had all his  
14 money and keys and whatnot, credit cards, so they got into  
15 a disagreement. Doug threw what was in his pocket at  
16 Dori, but it was in a money clip, so it went flying  
17 everywhere.

18 So Paul Crumb, other agents that were there,  
19 other senior Chubb personnel that were there, everyone,  
20 kind of ran down to retrieve his items, his personal items  
21 that were floating all around the ocean.

22 Q. Okay.

23 A. (Continued) And that's what she told me  
24 happened.

1 Q. Was she telling you this like at a cocktail  
 2 party or at dinner or something?  
 3 A. It was at our company picnic.  
 4 Q. Did Dori want you to report this to Human  
 5 Resources, Mr. Ekdahl?  
 6 A. No, that's not why she told me.  
 7 Q. But you did report it to Mr. Ekdahl?  
 8 A. Yes.  
 9 Q. Why did you report this to Mr. Ekdahl?  
 10 A. Mainly because our agents were involved  
 11 and --  
 12 Q. What did Mr. Baillie do wrong against  
 13 company policy then? First of all, was he subjected to --  
 14 was he subject to company policy when he was on the beach  
 15 with his wife and some friends?  
 16 A. At a Chubb-sponsored event with the senior  
 17 management from our company and our top tier agents,  
 18 there's an expectation that you behave in an appropriate,  
 19 professional manner.  
 20 Q. Had you been having problems with Mr.  
 21 Baillie at the time you reported this to Mr. Ekdahl?  
 22 A. Not that I recall, not then.  
 23 Q. Did Mr. Ekdahl share your view of the  
 24 seriousness of this event?

1 MR. MONTGOMERY: Argumentative. Asked and  
 2 answered.  
 3 Q. Is that right?  
 4 A. Have you met Mr. Ekdahl?  
 5 Q. I guess I will.  
 6 MR. MONTGOMERY: You don't get to --  
 7 THE WITNESS: I don't get to ask him  
 8 questions?  
 9 MR. MONTGOMERY: Just answer to the best of  
 10 your ability.  
 11 THE WITNESS: All right.  
 12 Q. Okay.  
 13 A. (Continued) I can't -- I can't say what was  
 14 in his head.  
 15 Q. All right. And he didn't express to you  
 16 what was in his head?  
 17 A. Not that I remember.  
 18 Q. Okay. Now, what did Mr. Baillie say when  
 19 you discussed it with him?  
 20 A. I didn't.  
 21 Q. Why wouldn't you talk to -- why didn't you  
 22 talk to Mr. Baillie to get his side of the story?  
 23 A. Because part of what Dori had said was that  
 24 that morning Tim Zerlong had asked Doug whether it

1 MR. MONTGOMERY: Objection. Calls for  
 2 speculation.  
 3 Q. Did he say anything or do anything that made  
 4 you believe that he shared your view that this was a  
 5 serious violation?  
 6 A. He didn't really say, he was on the  
 7 telephone.  
 8 Q. He is your boss, right, and you're in HR?  
 9 A. Who is "he"?"  
 10 Q. Ekdahl.  
 11 A. Yes.  
 12 Q. And you're talking to him, I mean, aren't  
 13 you -- you're reporting it to him because you think it's  
 14 seriousness enough to report to Ekdahl --  
 15 A. Yes.  
 16 Q. -- right? Like a violation of Human  
 17 Resource Policy or Company Policy of some sort, right?  
 18 A. If nothing else, when it involves our agents  
 19 and the behavior of our senior leader, yes. I felt that  
 20 that behavior was inappropriate.  
 21 Q. And you're saying you thought -- you  
 22 reported to him this because you thought it was  
 23 inappropriate and you can't recall whether or not Mr.  
 24 Ekdahl agreed or disagreed with you?

1 occurred and Doug said it didn't, and she was upset about  
 2 that, that he had lied to Tim Zerlong. So no, I wasn't  
 3 going to say anything to Doug about it.  
 4 Q. Did you go to talk to Zerlong about it?  
 5 A. No.  
 6 Q. The only persons you talked to about this  
 7 was with Dori, his wife, and to Jim Ekdahl?  
 8 A. And Lash was standing there when Dori was  
 9 telling the story, Jim Lash, so.  
 10 Q. Did you discuss it with Jim Lash at all or  
 11 did he just hear --  
 12 A. After?  
 13 Q. -- what Dori said?  
 14 A. No, we didn't talk about it after. I did  
 15 talk to one other person, but only when they brought it  
 16 up, and that was Andy Bryant.  
 17 Q. And what did Andy Bryant say to your  
 18 recollection?  
 19 A. He said that David Walker had approached him  
 20 after Doug's departure and asked if Doug was let go  
 21 because of what happened in Jamaica.  
 22 Q. So this was a conversation with Andy Bryant  
 23 after Baillie was terminated?  
 24 A. Yes.

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1 Q. What was the response to Walker, do you  
2 know?

3 A. I believe he said "we're not aware of why  
4 Doug left," and -- I don't know exactly what he said to  
5 him, you'll ask have to ask Andy.

6 (A recess taken from 4:04 p.m. to  
7 4:16 p.m.)

8 Q. Now, earlier, Diane, you mentioned that Mr.  
9 Baillie had made some sexist comments during his tenure.  
10 Do you recall that testimony?

11 A. Yes.

12 Q. What was the nature of the sexist comments  
13 he made?

14 A. On one occasion he had told Becky Emerson,  
15 who was our shared assistant, that I was very selfish for  
16 working while I was pregnant and it's not good for the  
17 baby, that I should be home with my children. Would you  
18 like more?

19 Q. What I'd like you to do is tell me all of  
20 the sexist comments --

21 A. Okay.

22 Q. -- he supposedly made.

23 A. We went to a happy hour for someone's  
24 going-away party, I believe, and I was chatting with him

1 after having her second child and when I asked her if  
2 she'd be willing to come back maybe on a part-time basis  
3 when we really needed her, she would not come back until  
4 Doug was gone because of things that he had said to her,  
5 but she wouldn't elaborate.

6 Q. What made you conclude that they were sexist  
7 comments as opposed to, you know --

8 A. That's all she would tell me was the nature.  
9 She said "I don't want to go into it, I just feel that I  
10 don't want to work for him directly or indirectly, that  
11 he's a pig, and I don't need that."

12 Q. Did you perform any investigation as a  
13 result of Beth Hunter's comments?

14 A. She was not an employee at the time.

15 Q. No investigation?

16 A. I asked the questions and she wouldn't  
17 answer them.

18 Q. I'm sorry, beyond the conversation with her,  
19 did you do any investigation?

20 A. No.

21 Q. Did you report the comments at the happy  
22 hour to anyone else?

23 A. Yes.

24 Q. Who to?

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1 about how he was -- how he was doing with the city, he was  
2 fairly new to the city, and how his wife, Dori, was doing  
3 and he said that she was very lonely and she wanted him  
4 home all the time, very needy. And I suggested that he  
5 have her join the golf league at Ivy Hills or a bridge  
6 club, something like that to make some friends. And he  
7 said "no, no, no, I don't like her to go out without me  
8 because women are known for being taken advantage of by  
9 men and before you know it, she would end up in bed with  
10 some guy, and I just don't want to put her that position,  
11 because men are so manipulative and women are easily  
12 manipulated."

13 Q. That was in a bar?

14 A. Yes.

15 Q. Did you ever wonder whether or not he was  
16 yanking your chain over that comment? Do you know what I  
17 mean by --

18 A. I don't really care if he was yanking his  
19 (sic) chain. It was inappropriate in my opinion.

20 Q. Inappropriate even if he was kind of just  
21 joking around with you?

22 A. Yes.

23 Q. Okay. Anything else?

24 A. I've had -- Beth Hunter left the company

1 A. Ekdahl.

2 Q. You would agree with me that Ekdahl is  
3 responsible for enforcing company policy and procedure?

4 A. Yes.

5 Q. Ekdahl is responsible for enforcing the  
6 company's code of conduct?

7 A. Yes.

8 Q. Ekdahl is responsible for enforcing the  
9 company's policy against sex discrimination or being  
10 sexist?

11 A. Yes.

12 Q. All right. Did you report the Becky Emerson  
13 comment to Ekdahl?

14 A. Yes.

15 Q. Okay. What did Ekdahl tell you about the  
16 happy hour incident, if can you recall?

17 A. I believe he expressed some disappointment,  
18 but that was all.

19 Q. Okay. Nothing else you can remember?

20 A. No.

21 Q. How about the Becky Emerson incident, do you  
22 remember anything Ekdahl said or led you to believe?

23 A. I believe he just wanted me to feel better  
24 about working both during my pregnancy and in the hopes

1 that I would return and he said "we really appreciate it,  
 2 I hope that you would tell us if you or your doctor felt  
 3 that you shouldn't be working for any medical reasons."  
 4 He wanted to clarify -- to make sure that I -- there was  
 5 no physical reason that I should be home and that I'm  
 6 being selfish. I confirmed that there was not.

7 Q. What do you think led him to ask that  
 8 question, to believe that you might have some sort of  
 9 physical problem or was he being sexist?

10 A. Well, in HR we have women who leave early  
 11 during their pregnancy because of complications, they go  
 12 on bed rest. And he wanted to make sure that I wasn't in  
 13 a position where I was potentially putting myself or the  
 14 baby at risk and once he confirmed that that was not the  
 15 case, he then said "okay, we do appreciate you being  
 16 here," and that was about the extent of it.

17 Q. Okay. But he wanted to confirm that?

18 A. Yeah.

19 Q. Did you tell him about the Beth Hunter  
 20 comment, Ekdahl, or did you think it was not important  
 21 enough or the fact that she was no longer employed made it  
 22 inappropriate to report it to Ekdahl?

23 A. I don't recall reporting that to Ekdahl.

24 Q. Baillie was obviously still in charge when

1 during a meeting?"

2 A. It was in conjunction with the Korte  
 3 conversation with wanting to make sure that both at his  
 4 level and with Dieter's zonal and myself, that we retain  
 5 Dieter. And that "Dieter's very frustrated, he wants to  
 6 leave, this happened, and they have differing views on the  
 7 business focus." So it was in -- it was part of a larger  
 8 conversation. He was just as example.

9 Q. Were you sitting behind Baillie at this  
 10 meeting?

11 A. I was -- he would be here (indicating), and  
 12 I was here (indicating).

13 Q. You're saying he read the newspaper the  
 14 entire meeting?

15 A. Pretty much.

16 Q. What was Ekdahl's response?

17 A. One of disappointment.

18 Q. Okay. Did he tell you to do anything about  
 19 it?

20 A. No.

21 Q. Did you talk to Baillie about the -- did you  
 22 ever confront Baillie about reading the newspaper?

23 A. Yes.

24 Q. What was Doug's reaction?

1 Hunter made that comment because she said she didn't want  
 2 to come back to work for him?

3 A. That's right.

4 Q. Okay. You earlier referenced reporting to  
 5 Ekdahl instances in where you were directly involved --

6 A. Yes.

7 Q. -- in connection with problems with Baillie.

8 Other than what you've already said about these allegedly  
 9 sexist comments, are there other instances where you were  
 10 directly involved in which Baillie did something  
 11 inappropriate or improper or contrary to company policy or  
 12 the Code of Conduct?

13 A. I can remember two events. One was an  
 14 account review meeting that I was a participant of where  
 15 Doug read the newspaper during the entire meeting while  
 16 other people were talking and defining their accounts and  
 17 their strategy and that sort of thing. And the other --

18 Q. Did you -- I'm sorry to interrupt you.

19 A. That's okay.

20 Q. You said there were two things. Did you  
 21 report this reading a newspaper to Ekdahl or anybody else?

22 A. I believe I did.

23 Q. And do you think you called Ekdahl and said  
 24 "Baillie is acting up again, now he's reading a newspaper

1 A. "I can listen and read the paper at the same  
 2 time."

3 Q. He can multitask?

4 A. Yes.

5 Q. Did you have any reason to disbelieve him?

6 A. Like I said, that's irrelevant because the  
 7 perception is that "this is not of interest to you or a  
 8 priority for you." I don't -- whether you're listening or  
 9 not, it gives the impression to other people that they're  
 10 not as important as your newspaper.

11 Q. Had other people complained to you about  
 12 this, or was this an impression you formed?

13 A. Other people complained about it.

14 Q. Who were they?

15 A. Dieter, Kevin Murphy, Erin Pesce, P-E-S-C-E,  
 16 E-R-I-N.

17 Q. What else were you involved in personally?

18 You said there were two things, I think.

19 A. Yeah, the --

20 Q. He read a newspaper and secondly --

21 A. The other was -- after I had my second child  
 22 and came back to work, I had, during my FMLA, come into  
 23 the office and met with Jim Ekdahl and Doug Baillie about  
 24 a reduced work schedule, 30 hours a week.

1 Q. Ekdahl and Baillie together?

2 A. Yeah. He came in from Chicago and we met  
3 about it. (Continued) We were all in agreement with the  
4 hours, I thought. Doug wasn't happy about the reduced  
5 schedule, but was going to try it out.

6 I -- the plan was Monday, Wednesday ten-hour  
7 days, Tuesday, Thursday, five-hour day. And I worked --  
8 left at about 1:00 p.m. on Tuesday.

9 Wednesday morning when I got in, Doug called  
10 from his cell phone on the speaker with Jeff Barton next  
11 to him and told me that my leaving yesterday was grounds  
12 for dismissal, he hadn't approved -- that if I was going  
13 to leave at 1:00, I had to take a PTO day, and if I was,  
14 in fact, taking a PTO day, that he hadn't approved it, and  
15 that I was insubordinate by leaving.

16 Q. Okay. And what was wrong with Baillie's  
17 statement in that regard?

18 A. Well, first of all, that's not grounds for  
19 dismissal, you have ten unscheduled PTO days that you can  
20 take without prior approval from your manager as part of  
21 our policy to allow for sick days and, you know,  
22 emergencies. It's not defined, it's whatever you need it  
23 for.

24 And second of all, he had this conversation

1 twice.

2 Does that make sense? I'm already not being  
3 made for it and I have to take a PTO day. It's like  
4 taking a PTO day on Saturday.

5 Q. Was this policy only applied to you?

6 A. Yes.

7 Q. I mean, were there other people with the  
8 same arrangement that were treated differently than you  
9 that you knew of?

10 A. Yes.

11 Q. Other people that had a 30-hour workweek --

12 A. Flexible work.

13 Q. -- flexible work week, other women?

14 A. Yes.

15 Q. Were there men with flexible workweeks?

16 A. Not that I knew of.

17 Q. Okay. And you're saying that Baillie or the  
18 company treated you differently than other people that had  
19 flexible workweeks?

20 A. Yes.

21 Q. And the other people with flexible workweeks  
22 were female?

23 A. I know of some that are female.

24 Q. Do you know of any that are -- well, okay.

1 with me, a very personal conversation, on a speakerphone  
2 with Jeff Barton sitting next to him listening to the  
3 whole thing, and actually chiming in on occasion.

4 Q. Barton should remember that --

5 A. Yes.

6 Q. -- well, strike that.

7 Okay. Anything else that was wrong with  
8 that conversation?

9 A. Well, probably the fact that I had to take a  
10 PTO day and was already being docked for not being there  
11 by only getting paid for 30 hours a week.

12 Q. I'm sorry, you were only getting paid for 30  
13 hours per week?

14 A. Yes. My pay was reduced when I started the  
15 schedule and --

16 Q. How was your pay being docked if you were  
17 getting paid for 30 hours of work if you worked 30 hours?

18 A. Well, if I have to take a PTO day, a half  
19 PTO day, that would assume I'm working 40 hours a week and  
20 getting paid for 40. Ten hours, Monday, Wednesday, five

21 hours, Tuesday, Thursday, to get to the 30.

22 If I have to take half-days for the  
23 afternoon of Tuesday and Thursday and not get paid for  
24 them on top of it, it's double -- I'm being penalized

1 So you realize that the different treatment  
2 of you was not on account of your sex; is that correct,  
3 because there were other females being treated differently  
4 than you?

5 A. Right.

6 Q. Okay. What do you think it was on account  
7 of that you were being treated differently?

8 A. My position.

9 Q. Okay. Baillie expected more of you because  
10 of your position in some way?

11 A. Yes.

12 Q. Why had you taken that day off?

13 A. Why did I?

14 Q. The PTO, what was it for?

15 A. Why did I take a PTO or why did I leave?

16 Q. Why did you leave work?

17 A. Well, we had an understanding that I would  
18 work until noon on Tuesday and Thursday.

19 Q. Okay. Any other reason?

20 A. That's enough.

21 Q. He should have known you were going to take  
22 the half-day off?

23 A. Right.

24 Q. Did you explain to Doug, "well, we had this

1 understanding, Doug, and I took the day off work because  
2 I'm not supposed to be working?"

3 A. Yes.

4 Q. And what did he say?

5 A. He said -- I don't remember word for word,  
6 of course, this is approximately what he said, okay?

7 Q. Uh-huh.

8 A. He said "are you still the Regional HR  
9 Manager?" And I said, "yes, until you fill the position  
10 otherwise." And he said, "well, as long as you are the  
11 Regional and until your replacement gets here, I expect  
12 you to work 40 hours minimum a week."

13 Q. So you considered that a directive from him  
14 to work 40 hours per week?

15 A. Yes.

16 Q. And did you work 40 hours per week  
17 thereafter or did you disregard his direction?

18 A. Well, I called Ekdahl, who was also at this  
19 meeting where we all agreed to it --

20 Q. Uh-huh.

21 A. -- and it was his recollection that Doug did  
22 agree to allow me to go to the 30 hours as well, and I  
23 believe he talked to Doug and they came to an  
24 understanding that Ekdahl was to post the job immediately,

1 drank too much, behaved improperly in front of agents and  
2 others, who had a management philosophy that didn't make  
3 any sense and otherwise didn't manage his people very  
4 well?

5 MR. MONTGOMERY: Objection. To some extent  
6 it mischaracterizes the testimony.

7 THE WITNESS: Do I answer anyway?

8 MR. MONTGOMERY: Yeah.

9 A. I never said them in those words. I  
10 reported what was reported to me.

11 Q. Okay. Let me ask you this question --

12 A. (Continued) And I didn't consider it  
13 reporting as much as I would consider gaining advice from  
14 Ekdahl on how to manage the situation.

15 Q. As Human Resources Manager, did you form an  
16 opinion that Mr. Baillie was a sexist?

17 A. As a person or as a human resources manager?

18 Q. I'm asking you whether you thought that a  
19 human resource manager for Chubb Insurance Company.

20 A. Yes.

21 Q. Okay. Did you think in your role as Human  
22 Resource Manager that you had a guy in charge of a branch  
23 that drank too much?

24 A. Yes.

1 my job, to get a replacement, and I was allowed to  
2 maintain the 30-hour workweek in the office.

3 Q. And thereafter did you have any more  
4 problems with Baillie regarding the 30-hour workweek?

5 A. Well, it never really was 30 hours. He  
6 would, in my opinion, come over and at 11:15 or 11:30 on  
7 the day that he knew I needed to leave at 12:00 with a  
8 project, calls on Fridays, that sort of thing. So that's  
9 all right, that was the job, so I put in the hours that --  
10 (witness did not complete response).

11 Q. What year was this?

12 A. My son was born July --

13 Q. How old is your son?

14 A. He was born in 2000, so it would have been  
15 end of 2000, first quarter of 2001.

16 Q. Okay. Now, in these various problems that  
17 you've described to us that you talked to Ekdahl about  
18 occurred throughout Baillie's tenure while you were the HR  
19 Manager; is that correct?

20 A. Uh-huh (nodding head affirmatively), yes.

21 Q. And it seems to me like you came to a  
22 conclusion and reported to Ekdahl, you know -- is a fair  
23 understanding of your testimony to say that you basically  
24 reported to Ekdahl that you were working for a sexist who

1 Q. And you, as an HR Manager, thought he  
2 violated the Chubb Code of Conduct?

3 A. Yes.

4 Q. He behaved improperly in front of agents,  
5 employees, and others?

6 A. Yes.

7 Q. Did you ever --

8 A. (Continued) You missed one.

9 Q. What was the other one then?

10 A. The other one was clarity of a strategy and  
11 communication.

12 Q. I assume you weren't in all of his meetings  
13 he had with his subordinates --

14 A. That's right.

15 Q. -- is that fair to say?

16 A. Yes.

17 Q. Now, you've reflected on this matter, I  
18 suppose, since Baillie was terminated, right?

19 A. Yes.

20 Q. Would you have an opinion one way or the  
21 other if you learned that Mr. Baillie was never  
22 disciplined by Ekdahl or anyone else for being a sexist?

23 A. Would I have an opinion as to whether that  
24 happened or whether --

1 Q. I understand that.

2 A. -- that I brought with me to remind me.

3 This was -- these were all from my file, personal notes.

4 Q. Well, that's the nature of my question. Did  
5 you go through your file and select out documents that  
6 you thought related to Baillie or did you take the notes  
7 and just turned them over regardless of whether or not  
8 they --

9 A. He had --

10 Q. -- dealt with Baillie?

11 A. He had his own file. So when I went for my  
12 interview, I took his file with me. It was specifically  
13 on him.

14 Q. Okay. So these notes that are in your  
15 handwriting, you're saying actually would have come --  
16 they may have been someplace else, but when you made notes  
17 about Doug Baillie, you put them in his personnel file?

18 A. I put them in a file for myself. It's my  
19 personal notes.

20 Q. Okay. But your personal notes, did -- this  
21 file on your personal notes, did they concern all your  
22 human resource activities or did you construct a file just  
23 with respect to Baillie? That's what I'm trying to figure  
24 out.

1 Do we have Baillie notes from you and  
2 others, or do we just have -- or did you go through and  
3 just give us Baillie notes?

4 A. I just gave you Baillie notes.

5 Q. Okay. That's what I thought.

6 Now, why do you suppose the conversation  
7 with Butler about alcoholism was produced to us if it  
8 wasn't about Baillie?

9 MR. MONTGOMERY: It does call for  
10 speculation, she didn't --

11 MR. FREKING: Okay. Strike that.

12 MR. MONTGOMERY: She didn't produce them to  
13 you, we did.

14 Q. You said you didn't talk to -- you didn't  
15 mention his name.

16 A. Right.

17 Q. Do you know why it would be that a note  
18 about alcoholism would be produced, if it was produced,  
19 from a file concerning Baillie?

20 A. Because of the excessive amount of drinking,  
21 I wondered if he was an alcoholic, but had no  
22 verification, so I put a copy of those notes in my  
23 personal file on Doug --

24 Q. Okay.

1 A. -- just in case.

2 Q. Let me hand you a document, 1355, and ask  
3 you if you recognize that document?

4 MR. MONTGOMERY: Before you see it, I just  
5 want to look at it beforehand.

6 Q. Do you know what that document is about? Is  
7 that your handwriting?

8 A. Yes, that's my handwriting. Doug and I had  
9 a disagreement about my personal cell phone and getting  
10 reimbursement for the business portion of those expenses.  
11 And it was my understanding that we had an agreement and  
12 then when I submitted the bills, he declined to pay them.  
13 And so I was upset and looked at one of his months of cell  
14 phones bills and wrote down a note to myself that if my  
15 number of personal calls were excessive, he had three  
16 times as many that particular month, so. I didn't share  
17 that with anyone, that was just for my record in case it  
18 came back again.

19 Q. You were kind of mad at Baillie?

20 A. Well, I was disappointed and didn't feel  
21 that he was being fair. "Do as I say, not as I do," is  
22 kind of what I felt like.

23 Q. And where did you find his cell phone  
24 record? Did you spend time during the workday to review

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1 that is the argument what he made with me on mine.

2 Q. And what's the note about "Beth's notes and  
3 three-ring binders"?

4 A. She thought that she had possibly -- she  
5 left some stuff when she resigned at her desk and she  
6 thought that she had left some notes that she'd written  
7 about interactions with Doug, but I couldn't find  
8 anything.

9 This was after our conversation when I asked  
10 her to come back and she said she wouldn't come back when  
11 Doug was there. And she couldn't elaborate on why and what  
12 specific interaction she had, she said "but I think I  
13 might have taken some notes and they were in a blue  
14 three-ring binder on my desk and if you still have my box  
15 of stuff, look in there and see if it's there," it wasn't  
16 there.

17 Q. Okay. And it looks like you went to look  
18 for that stuff around the time you were having this cell  
19 phone argument with Mr. Baillie?

20 A. Yeah, possibly. I can't say for sure, I  
21 didn't put dates, so. May I see that one more time --

22 Q. Uh-huh.

23 A. -- and see the shadows and see if it came  
24 from my calendar? It did come from my calendar, then I

1 talking to Haggard (sic) --

2 A. To --

3 Q. I'm sorry, in addition to talking to Ekdahl,  
4 did you have conversations with Tim Zerlong regarding any  
5 of these concerns you had about Mr. Baillie?

6 A. Yes, occasionally.

7 Q. Describe for me the nature of those  
8 conversations.

9 A. Well, as far as communicating strategy and  
10 managers who would approach me for advice on possibly  
11 interpreting what Doug had directed them to do or what  
12 they should be focusing on, that sort of thing, I would  
13 ask Tim before I would go back to the employee and give  
14 advice to make sure I wasn't saying the wrong thing --

15 Q. Do you know --

16 A. -- that I was consistent with corporate  
17 directives.

18 Q. Did you view yourself in the chain of  
19 command with respect to these employees who were coming to  
20 and questioning advice, you were fulfilling some sort of  
21 human resource function, right?

22 A. Right.

23 Q. The people that were coming to you  
24 expressing concerns reported to somebody else directly; is

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1 really can't say whether it was around the same time,  
2 because if I got it from my planner, I might have just had  
3 a "Doug" page and been writing things down.

4 Q. Well, it looks like there's a -- two-thirds  
5 of the page is blank --

6 A. Yeah.

7 Q. -- there's two entries on it, so it doesn't  
8 look like a Doug page -- well, strike that.

9 A. It is.

10 Q. It's a Doug page --

11 A. Yes.

12 Q. -- you think?

13 A. That's why it says "Doug" on top. You'll  
14 see lots of "Doug" pages in there.

15 Q. That have "Doug" on top?

16 A. I have memos for all of my branch managers  
17 on things that were happening, open items, that sort of  
18 thing.

19 Q. Uh-huh.

20 THE WITNESS: May I -- you can keep asking.  
21 May I get some water?

22 MR. FREKING: Sure. Oh, yeah.

23 THE WITNESS: Sorry about that.

24 Q. Now, tell me, Diane, did you, in addition to

1 that correct?

2 A. Yes.

3 Q. Is there some reason why when people said "I  
4 don't like whatever Doug's doing," is there some reason  
5 why the easy response wasn't "well, go talk to your  
6 immediate manager or go talk to Mr. Baillie directly"?

7 Why would Human Resources get involved? It doesn't sound

8 like a human resource issue.

9 A. Well --

10 MR. MONTGOMERY: Objection. Argumentative.  
11 It's not even a question really. There's no

12 question pending, so let's just wait until he asks.

13 MR. FREKING: Do you want to read back the

14 question?

15 (The court reporter read back the previous  
16 question.)

17 THE WITNESS: Can I answer that?

18 MR. MONTGOMERY: Sure.

19 A. Well, generally the first time or second  
20 time, I would ask that they clarify it with Doug.

21 Generally these were Doug's direct reports that were

22 coming to me.

23 And after a couple of times and no -- they

24 still don't understand, then I would get involved. And I

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1 believe my role is to make sure that our business results  
 2 are met or exceeded. Irregardless of whether that's  
 3 specific to a traditional HR function or not, our job is  
 4 to meet or exceed our budget

5 Q. After you became the Regional Manager back  
 6 in '99, did you receive any training in human resources or  
 7 personnel by Chubb?

8 A. Informal training.

9 Q. What do you mean by "informal training"?

10 A. I went up to Chicago for a week and met with  
 11 the HR team up there.

12 Q. Anything besides that?

13 A. An internal investigation seminar. A global  
 14 HR meeting.

15 Q. Any other conversation you remember having  
 16 with Zerlong specifically about Baillie other than these  
 17 complaints from subordinates?

18 A. He would ask for what employees are in  
 19 trouble or, you know, who's struggling in their job and  
 20 what we're doing about it. So we would talk about those  
 21 employees that were struggling in their positions and --  
 22 (witness did not complete response).

23 Q. And you would tell him Baillie was  
 24 struggling in his position?

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1 A. No.

2 Q. Oh, I'm wondering about conversations you  
 3 had with him --

4 A. Other employees?

5 Q. -- about Baillie?

6 A. About -- oh. Well, he would ask me what  
 7 Doug is doing about those employees that are struggling,  
 8 but --

9 Q. And how would you know what Doug was doing  
 10 about those employees who were struggling?

11 A. Well, I wouldn't know everything, but I  
 12 should know who is struggling and Doug and I would talk  
 13 about his plan for certain employees and if it were a  
 14 performance improvement plan, then I would need to review  
 15 all the documents before they're submitted to the  
 16 employee.

17 Q. How many -- did Mr. Baillie meet  
 18 occasionally with subordinates to discuss their  
 19 performance?

20 A. Yes.

21 Q. How many meetings during the two years you  
 22 overlapped with Mr. Baillie, approximately, would you say  
 23 you sat in in which Mr. Baillie had a performance  
 24 discussion with his subordinate?

1 A. Maybe three.  
 2 Q. You can remember three times you sat in on  
 3 meetings in which --  
 4 A. Involving someone else --  
 5 Q. -- in which Baillie --  
 6 A. -- yeah.  
 7 Q. So the vast majority of the time you were  
 8 not present when Mr. Baillie would meet with his  
 9 subordinates to discuss their performance?  
 10 A. Right.  
 11 Q. Did you tell Mr. Zerlong "I don't have very  
 12 much knowledge of how Doug is dealing with this, because  
 13 I'm not in the meetings between Doug and his  
 14 subordinates"?  
 15 A. Well, and the specific employee we're  
 16 talking about, I was in the meetings.  
 17 Q. Who was that?  
 18 A. Michael Whitman, W-H-I-T-M-A-N.  
 19 Q. Are those the three meetings you were in on?  
 20 A. Yes.  
 21 Q. Okay. So you can't recall any other  
 22 meetings you were in in which Mr. Baillie discussed  
 23 performance with a particular subordinate?  
 24 A. Right.

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1 Q. Any other things you recall discussing with  
 2 Zerlong specifically about Baillie?

3 A. No, not that I can recall.

4 Q. Do you know anything about Chubb's  
 5 performance under Mr. Baillie's tenure with respect to  
 6 diversity hiring?

7 A. Yes.

8 Q. Did you know that the company during his  
 9 reign met and exceeded goals as far as diversity hiring?

10 A. Yes.

11 Q. Did you know that Mr. Baillie set up a  
 12 diversity committee?

13 A. Mr. Baillie set up a diversity committee?

14 Q. Uh-huh.

15 A. There was a diversity committee formed. He  
 16 allowed us to start one, but I don't know if I'd say he  
 17 started it.

18 Q. There was not a diversity committee before  
 19 Mr. Baillie became the Branch Manager, and after he became  
 20 the Branch Manager there's a diversity committee formed?

21 A. Yes.

22 Q. Did the Diversity Committee and the goals  
 23 with respect to diversity hiring include the hiring of  
 24 females?